



US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: SPK-2007-01227

Date: January 10, 2008

Comments Due: February 8, 2008

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Southgate at East Bay development project, which would result in impacts to approximately 7.18 acres of waters of the United States, including wetlands, adjacent to Utah Lake. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and under Section 401 for state water quality certification.

APPLICANT: City of Provo
86 North University Avenue, Suite 240
Provo, Utah 84601
Attn: Lewis K. Billings
Tel: 801-852-6175

AGENT: K.A. Smith Consulting, Inc.
PO Box 709058
Sandy, Utah 84070-9058
Attn: Karri A. Smith, President
Tel: 801-833-9029

LOCATION: The project site (currently the city-owned East Bay Golf Course) is located east of Utah Lake and Interstate 15, in Section 18, Township 7 South, Range 3 East, SLB&M, Utah County, Utah, and can be seen on the Provo, Utah 7.5-minute USGS Topographic Quadrangle. Refer to Exhibit 1 for a map of the project area.

PROJECT DESCRIPTION: The applicant is proposing to redevelop the site of the city-owned East Bay Golf Course to construct a commercial development which would involve placing fill material for building pads, parking, and access needs. The proposed development would include numerous retail outlet stores, associated parking areas, and access. According to the applicant, the proposed development would reduce urban sprawl by utilizing an already developed portion of the city. The fill for the development would mainly be placed into constructed, non-regulated open water bodies and portions of regulated open water bodies and low-quality herbaceous and shrubby wetland fringe.

Impacts to waters of the United States, including wetlands, total 7.18 acres. There are approximately 3.14 acres of palustrine and riparian wetlands, 3.59 acres of regulated open water ponds, and 0.45 acre of riparian channel within the 55-acre project area. Specific wetland types are detailed in Table 1.

Based on the available information, the overall project purpose is to redevelop the existing East Bay Golf Course into a commercial development. The applicant believes there is a need to improve economic development in Provo and that locating the proposed project at the Golf Course site would eliminate the need to impact higher quality wetlands and wildlife habitat. Exhibit 2 provides additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The proposed development site is currently maintained as an 18-hole, golf course owned by Provo and open to the public. The Southgate at East Bay development area is directly east of the I-15 corridor and just south of 1860 South Street in Provo. Substantial commercial development exists to the north and east of the proposed project area. The existing golf course was constructed over an old landfill, and as such, landfill debris continues to resurface in the constructed ponds and channels.

Specific wetland types in the project area are detailed in Table 1. Dominant plant species include common cattail, hardstem bulrush, common reed, and reed canarygrass. Sandbar willow and tamarisk occur in the shrubby wetland fringe, and the forested wetland fringe includes Fremont cottonwood, Siberian elm, and Russian olive (in addition to the shrubby species). The aquatic resources in the proposed development area currently include:

- 1) Three non-jurisdictional ponds excavated entirely in uplands,
- 2) Excavated jurisdictional waterways excavated in the northwest portion of the project area,
- 3) An altered, naturally flowing channel in the southwest portion of the project area,
- 4) Jurisdictional wetland fringe along open water areas (both ponded and flowing), and
- 5) A 2.42-acre UDOT wetland mitigation area.

According to the applicant, the jurisdictional waters on the golf course site provide minimal habitat diversity and low quality wildlife habitat. Waters of the U.S. in the golf course provide low food chain support, wildlife habitat, and sediment trapping functions; flood storage and synchronization. Ground water recharge and discharge functions in the project area are moderate.

Alternatives. The applicant has provided information concerning project alternatives. The applicant's alternatives analysis appears in the attached materials. Provo City evaluated three other possible project locations within its boundaries, near the I-15/University Avenue exit. The City believes that the proposed site would be the least environmentally damaging, and the most practicable alternative since the project would utilize an already developed area. The three alternative sites evaluated to the west of I-15 would result in impacts to approximately 30 to 50 acres of wetlands with higher habitat value and overall wetland functions (Exhibits 4 thru 7). *Additional information concerning project alternatives may be available from the applicant or their agent.* Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation.

In coordination with the Corps, Provo City has begun restoration and preservation of wetlands in a 16.7-acre site located on the Despain Ranch (due east of Utah Lake State Park and north of the Provo River)

(Exhibit 3). The applicant's mitigation site includes approximately 12 acres of degraded, farmed peat wetlands, 2.1 acres of peat springs, 0.1 acre of cottonwood forest, and 2.5 acres of upland mounds.

To compensate for the Southgate East Bay development impacts, Provo City proposed to restore 7.18 acres of degraded, farmed peat wetlands. The applicant believes that the functional lift resulting from this restoration will more than compensate for proposed wetland impacts at the development site. Provo City intends to utilize/restore the remaining areas within the 16.7-acre site to meet wetlands mitigation needs for future unavoidable wetland impacts.

According to the applicant, and in coordination with the Corps, off-site mitigation of the proposed wetland impacts at the 16.7 acre Despain site is desirable because:

- 1) The mitigation site is located within the same watershed and is located within 5 miles of the proposed Southgate at East Bay project area,
- 2) The mitigation site is located just north of the Provo River and situated within the greater Utah Lake ecosystem,
- 3) Wetlands are present immediately to the west, north, and east of Provo City's mitigation area, providing contiguous wetland and wildlife habitat,
- 4) Restoring the substantially degraded, farmed peat wetlands will provide a unique, high quality and complex mosaic of contiguous shallow emergent marsh/wet meadow/spring/upland habitat,
- 5) The mitigation site is relatively isolated from human and traffic disturbances, and
- 6) The mitigation site is located within one of Provo City's formally designated conservation easement areas.

OTHER GOVERNMENTAL AUTHORIZATIONS: Water quality certification or a waiver, as required under Section 401 of the Clean Water Act from the Utah Division of Water Quality is required for this project. The Utah Division of Water Quality intends to issue certification provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (non-point sources) of wastes which will occur only during the actual construction activity and where best management practices would be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Ms. Shelly Quick, Utah Division of Water Quality, 288 North 1460 West, Post Office Box 144870, Salt Lake City, Utah 84114-4870, on or before **February 8, 2008**.

HISTORIC PROPERTIES: A cultural resource survey for the project site has not been conducted. The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, as appropriate.

ENDANGERED SPECIES: The applicant has not provided any information regarding Federally-listed species. Due to its proximity to Utah Lake and wetlands adjacent to the lake, the proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. The Corps will initiate consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

ESSENTIAL FISH HABITAT: The proposed project will not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

The above determinations are based on information provided by the applicant and preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity.

Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-2007-01227 must be submitted to the office listed below on or before **February 8, 2008**.

James McMillan, Senior Regulatory Project Manager
US Army Corps of Engineers
533 West 2600 South, Suite 150
Bountiful, Utah 84010
Email: james.m.mcmillan@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager, James McMillan, at 801-295-8380, ext. 17.

Attachments:
Exhibits 1 thru 7
Applicant's Alternatives Analysis
Table 1